

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON WEST VIRGINIA

Benjamin H., by his next friend, Georgann H.
David F. by his guardian, Carolyn B.
Lori Beth S. by her next friend, Patrician V. and
Thomas V. by his next friend, Patricia V., and
Justin E. by his next friend, Sherry E.,
Individually and on behalf of all others
Similarly situated,

Plaintiffs,

v.

Civ. Action No. 3:99-0338

Joan Ohl, Secretary of the Department
of Health and Human Resources,

Department.

MOTION TO REOPEN FOR A LIMITED PURPOSE

NOW COMES Plaintiffs, by counsel, and Defendant, by counsel, and move this Court to re-open the above captioned case for the limited purpose of entering the attached proposed Agreed Order. In support of this motion, the Parties state as follows:

1. The parties entered into a consent decree dated March 15, 2000.
2. By Order dated April 8, 2009, the consent decree of March 15, 2000, and the Order of April 8, 2009, were dissolved on December 31, 2014, and the action was stricken from the Court's active docket.
3. The Parties now seek entry of an Agreed Order clarifying that a reservation of slots on the Intellectual/Developmental Disabilities waiver waitlist for certain particularly vulnerable, institutionalized populations will not violate the terms of the consent order in this matter.

4. Accordingly, the Parties jointly move this Court to reopen this matter for the sole purpose of entering the attached, proposed Agreed Order. Upon entry of that order, the Parties ask that the Court re-close this matter.

WHEREFORE, the Parties respectfully request that this Court re-open this matter for the sole purpose of considering and entering the attached proposed Agreed Order.

Respectfully Submitted by
Plaintiffs and Defendant,
by Counsel:

/s/ Kimberly Stitzinger Jones
Kimberly Stitzinger Jones, Esq.
Office of the West Virginia Attorney General
Room 250
350 Capitol Street
Charleston, WV 25301

Vaughn T. Sizemore, Esq. (WV State Bar ID No. 8231)
Deputy Attorney General
Office of the Attorney General
State Capitol Building 1, Room E-26
Charleston, WV 25305
(304) 558-2021
Counsel for Department

/s/ Bren J. Pomponio
Bren J. Pomponio (WV State Bar ID No. 7774)
Mountain State Justice, Inc.
1217 Quarrier Street
Charleston, WV 25301
(304) 344-3144
(304) 344-3145 (fax)
Counsel for Plaintiffs